

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT BECKLEY

TOM HARRAH,

Plaintiff,

v.

CIVIL ACTION NO. 5:04-0632

JO ANNE B. BARNHART,
Commissioner of the Social
Security Administration,

Defendant.

ORDER

By Standing Order entered on May 20, 2002, and filed in this case on June 22, 2004, this action was referred to United States Magistrate Judge R. Clarke VanDervort for submission of proposed findings and recommendation. Magistrate Judge VanDervort submitted his proposed findings and recommendation on May 4, 2005. In that Proposed Findings and Recommendation, the magistrate judge recommended that this court deny the plaintiff's motion for summary judgment, grant the defendant's motion for judgment on the pleadings, affirm the decision of the Commissioner, and dismiss this matter from the court's docket.

In accordance with the provisions of 28 U.S.C. § 636(b), the parties were allotted ten days, plus three mailing days, in which to file any objections to Magistrate Judge VanDervort's Findings and Recommendation. No party has filed objections within the requisite period, and the failure of any party to file such objections constitutes a waiver of such party's right to a de

novo review by this court. Thomas v. Arn, 474 U.S. 140 (1985); Snyder v. Ridenour, 889 F.2d 1363 (4th Cir. 1989).

Having reviewed the Proposed Findings and Recommendation filed by the magistrate judge, the court adopts the findings and recommendations contained therein. Accordingly, the court hereby DENIES the plaintiff's motion for summary judgment (Doc. No. 10), GRANTS the defendant's motion for judgment on the pleadings (Doc. No. 12), AFFIRMS the final decision of the Commissioner, and ORDERS that this matter be DISMISSED from the court's docket.

The Clerk is directed to forward a certified copy of this judgment order to all counsel of record.

IT IS SO ORDERED this 13th day of July, 2005.

ENTER:

A handwritten signature in cursive script, reading "David A. Faber", is written over a horizontal line.

David A. Faber
Chief Judge